



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 6, 2004

Ms. Cynthia Villareal-Reyna
Section Chief
Legal and Compliance Division
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR2004-0094

Dear Ms. Villareal-Reyna:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 193791.

The Department of Insurance (the "department") received a request for the current state contract regarding individual insurance producer licensing examinations. You note that this request seeks information that is subject to a previous ruling from this office. In Open Records Letter No. 2003-0350 (2003), we reviewed a request that the department received relating to the same contract and considered the information which you provided. Because the facts and circumstances surrounding our previous ruling do not appear to have changed, to the extent that the present request seeks information on which we have previously ruled, you must comply with our prior ruling. *See* Open Records Decision No. 673 at 6-7 (2001) (criteria for previous determination regarding cases when requested information is precisely the same information as was addressed in a prior attorney general ruling).¹

You state that some of the responsive information will be withheld or released in accordance with our previous ruling. However, you are unsure from a review of your file on the matter

¹We note that the third party whose interests are at stake in the present request has submitted a brief in which it claims that some of the information in question is subject to proprietary claims. However, our ruling in the present case is based solely on the previous determination made in Open Records Letter No. 2003-0350.

as to whether the following sections of the requested information were in fact excepted from disclosure: 1) the project team organization chart, 2) the job analysis technical report, and 3) the mock-up sample booklet. In Open Records Letter No. 2003-0350, we ruled that, of these three items, only the technical report was excepted from disclosure under section 552.110(a) of the Government Code. Accordingly, the technical report must be withheld in the present request. The other two items must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

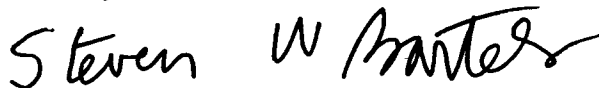
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or

complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Steven W. Bartels". The signature is written in a cursive, flowing style.

Steven W. Bartels
Assistant Attorney General
Open Records Division

SWB/seg

Ref: ID# 193791

Enc. Submitted documents

c: Ms. Susan D. Smith
PSI Examination Services
100 West Broadway, Suite 1100
Glendale, California 91210
(w/o enclosures)

Mr. James L. Nelson
Attorney at Law
101 East 9th Street, Suite 1100
Austin, Texas 78701
(w/o enclosures)